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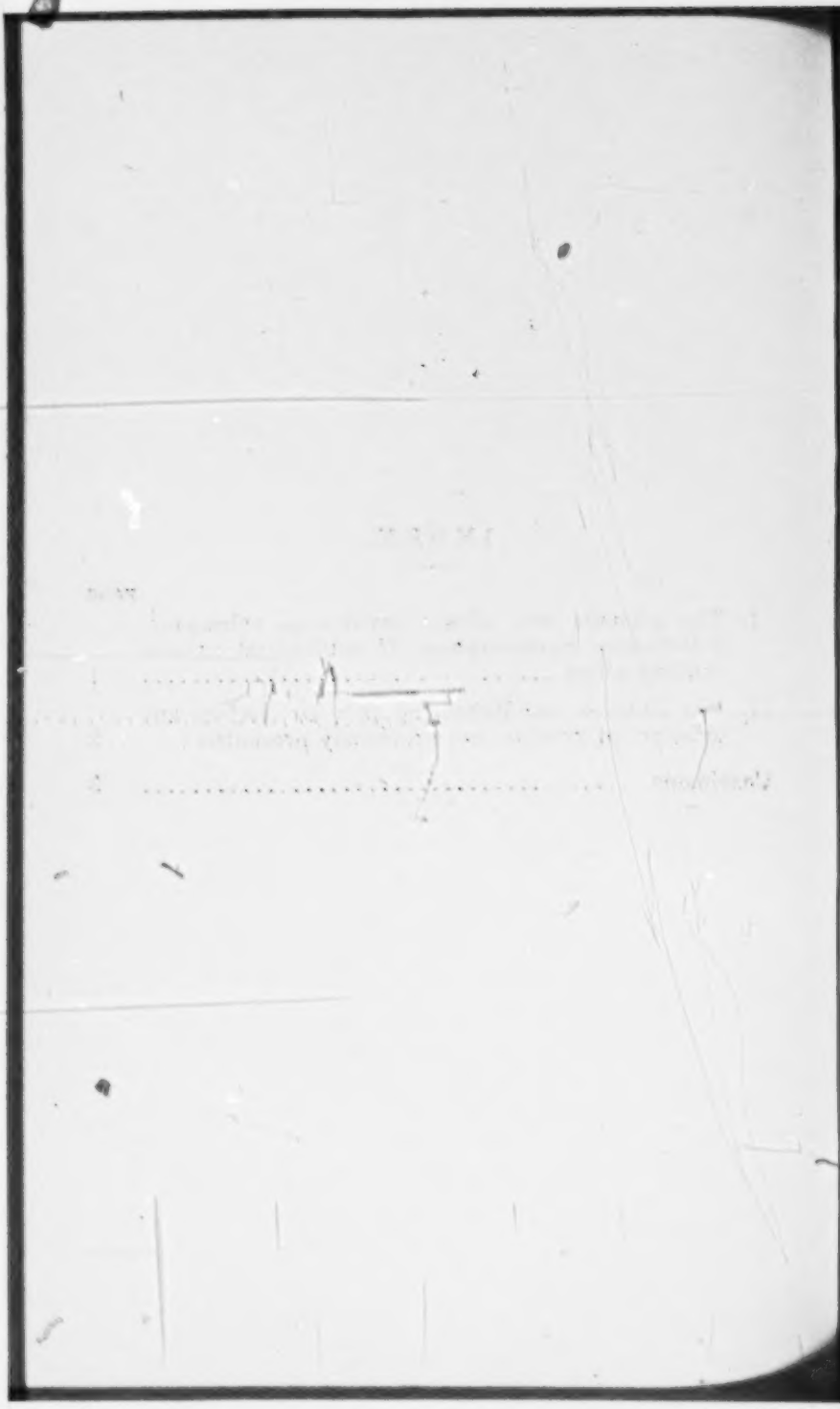

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1947.

No. 685

RAYMOND A. BELZ,

Petitioner,

vs.

THE BOARD OF TRADE OF THE CITY OF CHICAGO, et al.,

Respondents.

RESPONSE IN OPPOSITION TO PETITION FOR REHEARING ON DENIAL OF PETITION FOR WRIT OF CERTIORARI.

The Petition for Rehearing of the order on denial of the Petition for a Writ of Certiorari discloses neither grounds which are confined to intervening circumstances of substantial or controlling effect nor other substantial grounds available to petitioner not previously presented.

I.

The grounds now alleged involve no subsequent intervening circumstances of substantial or controlling effect.

The Petition for Rehearing (p. 2) refers to the opinions of this Court in three cases involving the motion picture industry handed down on May 3, 1948, as subsequent inter-

vening circumstances of substantial or controlling effect. These cases do not have any pertinency. The Court having heard arguments in these three cases undoubtedly had them in mind at the time of the denial of the Petition for a Writ of Certiorari in this case. The three cases cited by petitioner involve the monopolistic control which the defendants in those cases had acquired in the motion picture industry. As pointed out in the respondents' brief in opposition to the Petition for a Writ of Certiorari, Regulation 1899 of the Board of Trade did not deal with the exclusion of competitors but with the functioning of a contract market. Regulation 1899 was the exercise of an emergency power vested in the Directors of the Board of Trade; the purpose of its adoption was to resolve an emergency which had prevented the grain exchange from continuing to operate as a free, open and orderly market.

Petitioner also argues that he has met the requirements of pleading and cites the case of *Anderson* v. *Atchison Topeka & Santa Fe* (No. 620, October Term 1947, decided April 26, 1948) as a controlling subsequent intervening circumstance. This case has no relevancy. It merely decided that the complaint in that case seeking damages for wrongful death was sufficient to state a cause of action under the law of California. In addition, the same argument was advanced in the Petition for a Writ of Certiorari at page 29.

II.

The Petition for Rehearing fails to disclose any substantial grounds not previously presented.

Petitioner in this section of his Petition for Rehearing purports to set forth two additional substantial grounds: (1) that the Petition for a Writ of Certiorari failed to

suggest to the Court that notwithstanding petitioner's private status as a private litigant he nevertheless was acting in the public interest. This is not a new ground (see Pet., pp. 15, 16). (2) That the reasons for denial of certiorari relied upon by respondents in their brief in opposition to the Petition for a Writ of Certiorari do not justify denial of certiorari. It is obvious that this ground involves matters considered by the Court in denying the Petition for a Writ of Certiorari.

Conclusion.

We respectfully submit that the Petition for Rehearing should be denied.

Respectfully submitted,

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